Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

DA 93-657

In the Matter of	)	
	)	
	)	CC Docket No. 93-162
	)	
Ameritech Operating Companies Revisions to Tariff FCC No. 2	)	Transmittal Nos. 697, 711
	)	
Bell Atlantic Telephone Companies Revisions to Tariff FCC No. 1	)	Transmittal Nos. 557, 571
	)	
BellSouth Telecommunications Inc. Revisions to Tariff FCC No. 1	)	Transmittal Nos. 92, 111
	)	
Cincinnati Bell Telephone Company Revisions to Tariff FCC No. 35	)	Transmittal Nos. 620, 627
	)	
Centel Telephone Company Revisions to Tariff FCC No. 1	)	Transmittal Nos. 217, 225
	)	
GTE System Telephone Companies Revisions to Tariff FCC No. 1	)	Transmittal Nos. 34, 44
	)	
GTE Telephone Operating Companies Revisions to Tariff FCC No. 1	)	Transmittal Nos. 771, 790
	)	
Lincoln Telephone and Telegraph Co. Revisions to Tariff FCC No. 3	)	Transmittal Nos. 64, 70
	)	
Nevada Bell Revisions to Tariff FCC No. 1	)	Transmittal Nos. 153, 164
	)	
NYNEX Telephone Companies Revisions to Tariff FCC No. 1	)	Transmittal Nos. 165, 197
	)	
Pacific Bell Revisions to Tariff FCC No. 128	)	Transmittal Nos. 1613, 1630
	)	
Rochester Telephone Corporation Revisions to Tariff FCC No. 1	)	Transmittal Nos. 183, 193
	)	
Southern New England Telephone Co. Revisions to Tariff FCC No. 39	)	Transmittal Nos. 555, 564
	)	
Southwestern Bell Telephone Company Revisions to Tariff FCC No. 73	)	Transmittal Nos. 2260, 2279, 2280

United Telephone Companies Revisions to Tariff FCC No. 5	))	Transmittal Nos. 315, 323
US West Communications, Inc. Revisions to Tariff FCC No. 1	))	Transmittal Nos. 331, 362

ORDER

Adopted: June 9, 1993; Released: June 9, 1993

By the Acting Chief, Common Carrier Bureau:

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I. INTRODUCTION

1. On February 16, 1993, the above-captioned Tier 1 local exchange carriers (LECs) filed tariffs offering expanded interconnection for special access services.[1] These tariffs are currently scheduled to become effective June 16, 1993. By this Order, we are advancing the effective date for the expanded interconnection tariffs by one day; partially suspending these tariffs pursuant to Section 204(a) of the Communications Act, 47 U.S.C. § 204(a); initiating an investigation with issues to be designated in a subsequent order; imposing an accounting order; rejecting patently unlawful terms and conditions; and ordering tariff revisions.

II. BACKGROUND

2. On October 19, 1992, the Commission released the Expanded Interconnection Order,[2] which required Tier 1 LECs to file tariffs offering expanded interconnection for special access services to all interested parties.[3] Specifically, the Expanded Interconnection Order required these LECs to permit competitors and users to terminate their own special access transmission facilities at LEC central offices and interconnect with LEC special access services.[4] The Expanded Interconnection Order mandated interconnection through the provision of physical collocation, except in limited instances upon Commission approval;[5] and virtual collocation where physical collocation is not provided and in certain other circumstances.[6]

3. Ten parties filed petitions against the tariffs; all the tariffs were petitioned against by one or more parties.[7] Each LEC filed a reply. Also on February, 16, 1993,

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[1] These LECs are listed in Appendix A. The abbreviations for the LECs as indicated in the Appendix are used throughout this Order. GTOC and GSTC are also referred to collectively as GTE.

[2] Expanded Interconnection with Local Telephone Company Facilities, 7 FCC Rcd 7369 (1992) (Expanded Interconnection Order), recon., 8 FCC Rcd 127 (1992) (Expanded Interconnection Modification Order), pets. for recon. pending, appeal pending sub nom. Bell Atlantic Corp. v. FCC, No. 92-1619 (D.C. Cir., filed Nov. 25, 1992).

[3] Id. at 7372, 7398. The Expanded Interconnection Order excluded NECA pool members from this filing requirement. This effectively excluded only Puerto Rico Telephone Company, which is the only Tier 1 LEC that is also a NECA pool member. Id. at 7398.

[4] Id. at 7372.

[5] See Section III.C.1, infra.

[6] See Section III.C.2, infra.

[7] These petitioners and the LECs against which they filed are listed in Appendix B. The abbreviations for the parties as indicated in the Appendix are used throughout this Order.

The petitions to reject or suspend and investigate the expanded interconnection tariffs

nine petitions for exemption from physical, and sometimes virtual, collocation based on space exhaustion and/or state policy grounds were filed by the LECs. Eight oppositions were filed and eight replies. We deal with these petitions in a companion order which is being released concurrently with this Order.[8]

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were due on March 15, 1993. PUCO filed its petition on March 16, 1993, concurrently with its motion to accept late-filed pleading. PUCO avers that it was unable to file on time due to the severe weather that struck the country over the weekend of March 13-14, 1993. PUCO asserts that it both faxed and sent by overnight delivery copies of its petition and motion to accept late-filed pleading to the LECs' counsel on March 16. PUCO argues that since parties received actual notice of the filing sooner than they would have had PUCO filed on March 15 and served the parties by first-class mail, acceptance of its late-filed petition would not prejudice any party. PUCO Motion for Acceptance of Late-Filed Pleading at 1-2. No party opposed PUCO's motion.

MFS filed its petition on March 17, 1993, concurrently with its motion to accept late-filed pleading. MFS avers that it was unable to file on time because the severe weather that struck the country over the weekend of March 13-14, 1993, stranded several key MFS personnel during their travels, and caused its law firm's voice messaging system to become overloaded, thereby preventing these MFS personnel from arranging conference calls with counsel over the weekend to finalize the document. MFS asserts that it had copies of its petition and motion hand-delivered to the LECs' counsel, the Common Carrier Bureau, and the Tariff Division before 3 p.m. on March 17. MFS argues that since parties received actual notice of the filing sooner than they would have had MFS filed on March 15 and served the parties by first-class mail, acceptance of its late-filed petition would not prejudice any party. MFS Motion to Accept Late-Filed Pleading at 1-3. Bell Atlantic filed an opposition to MFS's motion to accept late-filed pleading, contending that MFS provides no valid justification for filing its petition late. Bell Atlantic asserts that since MFS's March 3 ex parte submission addressed many of the tariff issues, MFS must have already obtained ample input from MFS personnel in this proceeding. Bell Atlantic also notes that all other carriers were able to file their oppositions in a timely manner, including one represented by the same law firm as MFS and thus, Bell Atlantic asserts, presumably subject to the same voice messaging system overload and storm problems that inhibited MFS's filing. Bell Atlantic also claims that it did not receive MFS's petition until March 18, not March 17 as MFS contends. Bell Atlantic Opposition at 1-3. MFS replies that it delivered copies of its filing to its messenger service on March 17 for immediate delivery and was not aware, until it investigated the situation in response to Bell Atlantic's claim, that two parties did not receive delivery until March 18. MFS continues to insist that neither Bell Atlantic nor any other party to this proceeding was materially prejudiced as a result of MFS's late filing because on March 26, the Commission granted all LECs an additional week to reply to the oppositions to their collocation tariffs, thereby giving them adequate time to review and respond to MFS's petition. MFS further asserts that the public interest in compiling a complete record would be served by acceptance of its late-filed pleading. MFS Reply at 1-3.

We find that PUCO and MFS have shown good cause for their late filing. Accordingly, we grant MFS's and PUCO's motions and accept their pleadings.

[8] Expanded Interconnection with Local Telephone Company Facilities, Petitions for Exemption from Physical Collocation Requirement, CC Dkt. No. 91-141, Memorandum Opinion and Order, DA 93-658 (rel. June 9, 1993) (Exemption Order).

III. DISCUSSION

A. Expanded Interconnection Tariffs

4. Pleadings. Generally, the petitioners urge the Commission to partially suspend the LECs' rates, impose an accounting order, and commence an investigation.[9] Some petitioners request rejection or partial rejection, or alternatively, suspension and investigation.[10] Some petitioners state that the Commission should prescribe interim rates.[11] Teleport suggests identifying particular LEC interconnection rates as a baseline to establish maximum permissible rates for particular items to set interim rates.[12] MFS urges the Commission to establish a uniform and objective benchmark by mandating that total recurring and nonrecurring charges under the collocation tariffs should not exceed 25 percent of the LECs' tariffed channel termination and multiplexing charges for an equivalent DS1 circuit.[13] MCI states that the Commission should use a clustering of charges falling at the low end of the range of proposed charges.[14]

5. In response, Bell Atlantic and GTE contend that the Commission's prescription authority under the Communications Act is limited to a Section 205 proceeding, and can only occur after notice and opportunity for a hearing.[15] Bell Atlantic asserts that the Commission has no lawful right to use its partial authorization authority under Section 204(b) to avoid the hearing requirement of Section 205 before prescribing a rate different

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[9] MFS Petition at 6-7 (citing Bell Atlantic Telephone Companies, 6 FCC Rcd 1436 (1991), and 6 FCC Rcd 4891 (1991)), 9; ALTS Petition at 20 (citing same); Ad Hoc Petition at 3 (citing Bell Atlantic Telephone Companies, 6 FCC Rcd 1436, 1438 (1991)); Teleport Petition at 1-3 (citing Local Exchange Carriers Individual Case Basis DS3 Services, 5 FCC Rcd 4842 (1990) and Bell Atlantic Telephone Companies, 6 FCC Rcd 1436 (1991)); MCI Petition at 3; Sprint Petition at 1.

[10] Ad Hoc Petition at 1-2; MFS Petition at iii; PUCO Petition at 1, 3; TDL Petition at 1-2; PAC Petition at 1, 4. WilTel requests only that the Commission suspend and investigate the LECs' tariffs. WilTel Petition at 1, 12; WilTel Petition (Bell Atlantic) at 1, 7.

[11] MFS Petition at 6-7 (citing Bell Atlantic Telephone Companies, 6 FCC Rcd 1436 (1991), and 6 FCC Rcd 4891 (1991)); Ad Hoc Petition at 3 (citing Bell Atlantic Telephone Companies, 6 FCC Rcd 1436, 1438 (1991)); Teleport Petition at 1-2, 13 (citing Local Exchange Carriers Individual Case Basis DS3 Services, 5 FCC Rcd 4842 (1990) and Bell Atlantic Telephone Companies, 6 FCC Rcd 1436 (1991); MCI Petition at 3; ALTS Petition at i.

[12] Teleport Petition at 4.

[13] MFS Petition at 7-8.

[14] MCI Petition at 3.

[15] Bell Atlantic Reply at App. A Item 25; GTE Reply at 29-31.

from that which the carrier originally filed,[16] while GTE claims that the Commission has no authority to impose a partial suspension under Section 204(a).[17] SWB also rejects any suggestion that the Commission employ a partial rate suspension.[18] With respect to rate levels, GTE contends that the Commission does not have the statutory authority to reduce rates to a uniform level, as some commenters suggest.[19] In addition, SWB, GTE, and Ameritech argue that selecting the lowest rates for each rate element could be confiscatory.[20] SWB and Ameritech also assert that this methodology ignores the specific costs that are incurred by different providers in their own markets.[21] SNET, too, asserts that there is no justification for using this method.[22] Pacific argues that a benchmark cannot logically be applied to rates that are based on central office-specific costs. If benchmarking to LEC high capacity rates is used, Pacific states that the comparison is to like-kind rates with no term commitment, since collocators are not held to a term.[23] Pacific also argues that it is reasonable for the collocator to incur the cost of complying with government regulations, and that the costs of modifications to central offices should be borne by interconnectors.[24] CBT argues that lowering nonrecurring charges (NRCs) would effectively shift the cost of interconnection to other CBT ratepayers, since the NRCs are based on cost.[25] GTE opposes suggestions to eliminate NRCs in favor of recurring charges, because use of NRCs to recover building modifications assures that the cost is borne by the cost causer.[26]

6. In addition to the issues summarized in this Order, the parties raise numerous other issues regarding the rates, terms, and conditions of the expanded interconnection tariffs. Many of these issues will be discussed in the context of the upcoming Order designating issues in this docket.

7. Discussion. Based on our analysis of the record, and as explained below, we find the LECs' expanded interconnection tariffs raise significant questions of lawfulness

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[16] Bell Atlantic Reply at App. A Item 25.

[17] GTE Reply at 29-31.

[18] SWB Reply at 46-47.

[19] GTE Reply at 29.

[20] SWB Reply at 46-47; Ameritech Reply at 6; GTE Reply at 29-31.

[21] SWB Reply at 46-47; Ameritech Reply at 6.

[22] SNET Reply at 6.

[23] Pacific Reply at 28-29.

[24] Id. at 50-51.

[25] CBT Reply at 8-9.

[26] GTE Reply at 35-36.

regarding cost allocations, resulting rate levels, rate structures, and terms and conditions of service that warrant suspension for one day, investigation, and imposition of an accounting order. We will designate specific issues and establish a pleading cycle for this hearing in a subsequent order. In the interim, we order that the carriers' proposed rates for expanded interconnection be partially suspended pursuant to our authority under Section 204(a) of the Communications Act, 47 U.S.C. § 204(a). We also order other tariff revisions.

B. Rate Levels

8. Pleadings. *Collocation Prices Compared to LEC End-To-End DS1 Service Prices.* One argument made by petitioners against the LECs' proposed rates concerns the price of collocation compared to the price of end-to-end DS1 service. Teleport, MFS, PAC, ALTS, and PUCO assert that, in a number of cases, the recurring and nonrecurring rates for physical collocation arrangements result in total costs to the collocator that approach or exceed the LECs' tariffed charges for full end-to-end DS1 service, thereby making it impossible for interconnectors to compete against the LECs.[27] PUCO asserts that this results from the combination of two LEC practices. First, PUCO charges that the level of aggregation in the rate structure denies interconnectors many of the economies that the LEC enjoys when it provides its services. Second, PUCO claims that the underlying costs of certain functions appear to be recovered in several rate elements, thereby promoting LEC double-recovery.[28] MFS claims that physical collocation charges exceed tariffed DS1 service rates by 100.6 percent for Ameritech; 169.2 percent for Bell Atlantic; 140.9 percent for BellSouth; and 156.1 percent for US West. MFS asserts that the virtual collocation charges exceed tariffed DS1 service rates by 127.9 percent for Ameritech and 118.9 percent for Bell Atlantic.[29] Teleport claims that physical collocation charges per DS1 exceed DS1 retail service cost by $24 for Bell Atlantic; $5 for Ameritech; and $21 for US West. Teleport also alleges that virtual collocation charges per DS1 exceed DS1 retail service cost by $7 for Ameritech and $13 for Bell Atlantic. Teleport further avers that additional ICB charges also apply in the case of Bell Atlantic

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[27] Teleport Petition at 3-6, 10-13, and App. B; PAC Petition at 15-19 and Exh. A; ALTS Petition at 4-5 and App. A; PUCO Petition at 16; MFS Petition at 3-7 and Att. B.

[28] PUCO Petition at 16.

[29] MFS Petition at 5-6. MFS states that in computing the LECs' proposed collocation charges as per-DS1 amounts, it assumed a total of 70 DS1 cross-connects in any given office, and included all recurring charges, a prorata portion of nonrecurring charges amortized over a five-year period, and applicable rollover charges. Id. at 5 n.6.

In the Expanded Interconnection Order, the Commission uses the term "cross-connect" element to refer specifically and only to the "short cable connection from the LEC distribution frame to the central office electronic equipment owned by or dedicated to the interconnector." Expanded Interconnection Order, 7 FCC Rcd at 7442; see also Section 69.121(a)(1) of the Commission's Rules, 47 C.F.R. § 69.121(a)(1). It should be noted, however, that the LECs and the petitioners may be using this term to encompass a broader array of expanded interconnection connection charges.

and US West.[30]

9. The LECs challenge the validity of the petitioners' analyses and deny the petitioners' allegations. CBT argues that the relevant comparison is not to the LECs' own rates for DS1 or DS3, but to the costs of the CAPs constructing their own networks.[31] US West also argues that Teleport ignores the savings a CAP receives by gaining access to LEC channel terminations through collocation arrangements to reach end users versus the cost to a CAP of constructing its own facilities to the end user.[32]

10. Bell Atlantic replies that the petitioners use faulty rate comparisons and other faulty assumptions to reach their erroneous results. For example, Bell Atlantic asserts that petitioners compare month-to-month DS1 collocation rates with 5-year rates for high capacity DS3C service, and argues that this type of "apples to oranges" comparison produces useless and misleading results. Bell Atlantic also charges that MFS and ALTS reduce the price of the non-collocated service by understating the number of multiplexers required; Teleport assumes that GSF costs have been reallocated when such reallocation is not permitted, and overestimates by nearly 100 percent the expected special access rate reductions under Bell Atlantic's rate zone plan; PAC overestimates the amount of collocated space (200 square feet) it will need to terminate only 10 DS1 lines; and all parties assume there will be only one collocator in each office, though many are likely to house two or more.[33] Bell Atlantic asserts that a proper comparison shows that its collocation rates are substantially below those of its comparable DS1 service tariff.[34] Specifically, Bell Atlantic contends that its cross-connect rates are 33 percent to 74 percent of the equivalent channel termination rate.[35]

11. BellSouth and Pacific contend that MFS and Teleport use too low a quantity

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[30] Teleport Petition at 11 and Table 1. Teleport states that its analysis is based on the following assumptions: (1) the collocation cost represents charges paid only to the LEC for space and cross-connections to establish 100 DS1s (an amount Teleport asserts is consistent with its experience and matches the demand forecasted by Ameritech), and includes amortization of nonrecurring charges; and (2) the retail per DS1 cost represents rates for 4 DS3s and associated multiplexing to derive up to 112 DS1s, including a 15 percent reduction to represent zone pricing and elimination of the GSF allocation. Id. at 10-13 and Table 1.

[31] CBT Reply at 12-13

[32] US West Reply at App. A.

[33] Bell Atlantic Reply at App. A Item 1.

[34] Id.

[35] Id. at App. B. In addition, Bell Atlantic claims that while Teleport objects to Bell Atlantic's charges, Teleport's own tariff contains rates in excess of those to which it objects. For example, Bell Atlantic asserts that Teleport's maximum DS1 and DS3 cross-connection charges of $75 and $700 are higher than those of any LEC, and Teleport's minimum DS3 cross-connection charge of $300 is more than double Bell Atlantic's rate. Id. at App. A Item 1.

of DS1s in their computations.[36] BellSouth contends that the results of those computations merely show that collocators using a low number of DS1s would not meet minimum economies of scale that warrant better pricing, and does not prove that rates for expanded interconnection are too high.[37] NYNEX also asserts that the cost per DS1 cross-connect for an interconnector is related to the volume of traffic the interconnector can send out of a collocated enclosure, and that the expanded interconnection tariffs do not guarantee an interconnector that it will be able to achieve any particular level of traffic out of a multiplexing node.[38]

12. BellSouth asserts that Teleport used the wrong channel interface elements. BellSouth contends that if Teleport had used the correct channel interface elements, Teleport's computed cost per DS1 would be $95, not $83 as Teleport computed. Moreover, BellSouth asserts, Teleport incorrectly used BellSouth's term plan B, whereas most of its customers have selected term plan A, the two-year plan. BellSouth asserts that the equivalent DS1 rate would be $103 if the term plan A rates are used. BellSouth also claims it could not duplicate the MFS computations. BellSouth contends that, when computed correctly, its expanded interconnection rates are lower than its computed end-to-end DS1 equivalent rates.[39] Ameritech, too, argues that Teleport's calculations of DS1 costs for physical collocation are incorrect. Ameritech asserts that a proper analysis of relevant rates shows that interconnectors will benefit by purchasing expanded interconnection arrangements rather than end-to-end service.[40]

13. US West attacks as erroneous Teleport's initial assumption, i.e., that total expanded interconnection charges should be less than DS1 or DS3 charges. US West also contends that there are several flaws in Teleport's comparison of DS1 rates and expanded interconnection rates. US West claims that Teleport mischaracterized its analysis as a comparison of an end-to-end service with provision of empty central office space. US West asserts that its expanded interconnection service includes, inter alia, the costs of building cages, power, air conditioning, and security.[41] US West also asserts that Teleport includes only one channel termination charge in its DS1 rate rather than two as would be needed.[42] In addition, US West argues that Teleport understates its DS1 rate by assuming that all DS1 customers would be able to buy DS3s and multiplexing

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[36] BellSouth Reply at 17-19; Pacific Reply at 25. Pacific would use 4,000 DS1s to make the comparison. Pacific Reply at 26.

[37] Bellsouth Reply at 18-19.

[38] NYNEX Reply at 18.

[39] BellSouth Reply at 17-18 and n.23.

[40] Ameritech Reply at 8 and Exh. A.

[41] US West Reply at 37-39.

[42] Id. at 39.

services.[43] According to US West, making these corrections, and assuming that 30 of 100 DS1s are delivered at the standard DS1 rate, increases its average DS1 price to $75.[44] US West also estimates that its costs of constructing collocation space will average $40,000, rather than the $60,000 Teleport estimates, and that 100 feet of inner duct is a more reasonable assumption than Teleport's assumption of 1000 feet. Finally, US West asserts that its average expanded interconnection price is $55.49, rather than $61.62 as Teleport estimates.[45]

14. Centel asserts that MFS provides a flawed comparison of Centel's DS1 costs to its physical collocation cross-connect charges. It asserts that the actual comparison of Centel's DS1 cross-connect charges to its DS1 special access channel termination and multiplexing charges shows that the cross-connect charges are less than three percent of the channel termination and multiplexing charges.[46] GTE argues that the comparisons of MFS and Teleport are incorrect because the two services being compared are unlike and asserts, without elaboration, that the analyses themselves contain errors.[47]

15. NYNEX responds that Teleport's and MFS's comparison of DS1 expanded interconnection service rates to "retail" prices for DS1 service is meaningless. NYNEX asserts that 53 percent of the cost of a "DS1 Cross Connect" as calculated by MFS and Teleport represents the cost for construction of the multiplexing node, or cage, amortized over a five year period. NYNEX points out that it does not construct such nodes to provide its own services (and depreciates its capital accounts for office construction over periods far longer than 5 years).[48] NYNEX further maintains that the multiplexing node in the central office replaces a node the interconnector would have to establish outside the central office building if expanded interconnection were not allowed, and thus it is incorrect to assume that the costs of building a node inside a central office are incremental to the CAP's business operations.[49] NYNEX continues that the costs of space rental, which represent 16 percent of the "DS1 Cross Connect," are not necessarily related to the building costs that NYNEX incorporates into its own DS1 channel termination rates.[50] In addition, NYNEX states that 18 percent of the "DS1 Cross

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[43] Id. at 2-3.

[44] Id. at 3.

[45] Id. at 4.

[46] United/Centel Reply at 20-21.

[47] GTE Reply at 31.

[48] NYNEX Reply at 17 & n.30.

[49] Id. at 17-18.

[50] Id. at 18. NYNEX also contends that Teleport overestimates multiplexing node costs by assuming it will pay $5.33 per square foot per month for node space, when NYNEX's average recurring cost for such space is $3.21. Id. n.31.

Connect" charge covers NYNEX's NRCs for installations and rollovers, amortized over 5 years. NYNEX notes that MFS and Teleport, however, compare these costs to NYNEX's rates, per DS1, for DS3 services, without NRCs. NYNEX contends a reasonable comparison would be similar to MCI's, which shows NYNEX's expanded interconnection rates for DS1 and DS3 cross-connects are 2.61 percent and 4.80 percent of NYNEX's rates for standard DS1 and DS3 channel terminations, respectively. NYNEX asserts that these differentials provide interconnectors with ample opportunity to compete.[51]

16. *Overhead Costing Methodology.* Another concern raised by the petitioners against the LECs' proposed rates is the overhead costing methodology used by the LECs to price their interconnection service. These concerns involve the use of Fully Distributed Costing (FDC) methods as well as other overhead issues.

17. MFS, TDL, and ALTS object to the LECs' using a FDC methodology to price their expanded interconnection services, while using incremental costing methods to price tariffed services against which collocators will compete.[52] MFS and ALTS contend that this allows the LECs to overrecover overheads from competitors, while underrecovering or not recovering overheads from their own customers,[53] thereby forcing interconnectors to subsidize the LECs' competitive services.[54] TDL, MFS, and ALTS argue that the LECs must be required to use the same methodology to price the collocation arrangements that they use to price the services they provide directly to end users.[55] MFS contends that the inclusion of general overhead loadings is equivalent to using FDC.[56] Thus, MFS and TDL urge the Commission to reject or suspend the use of all general overhead loading factors used by the LECs to set collocation rates and charges.[57]

18. GTE replies that the Expanded Interconnection Order permits LECs to use fully distributed costing to determine rates for interconnection. According to GTE, limiting rates to direct costs alone would force other services to bear a greater share of

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[51] Id. at 18.

[52] MFS Petition at 16-18; TDL Petition at 6; ALTS Petition at 6.

[53] MFS Petition at 17; ALTS Petition at 6.

[54] MFS Petition at 17.

[55] TDL Petition at 6; ALTS Petition at 7; MFS Petition at 17-18. MFS states that requiring the LECs to employ consistent ratemaking methodologies would serve the goal of preventing LECs from imposing network costs on competitors, but not on similarly situated customers. This, MFS claims, is analogous to the goal of the regulatory scheme adopted in the Commission's ONA Rules. MFS Petition at 18 n.40.

[56] Id. at 15 & n.31.

[57] Id. at 15-18, 18 n.40; TDL Petition at 6.

costs. GTE states that arguments against FDC methods are properly raised on reconsideration.[58] Bell Atlantic replies that prohibiting LECs from using FDC for collocation rates, while using average variable costs for high capacity service rates, would require a change in the price cap rules.[59]

19. NYNEX replies that the assumption that LECs price their DS1 and DS3 services at incremental costs is incorrect, that NYNEX does not do so, and that the overall revenues for NYNEX's interstate DS1 and DS3 services exceed fully distributed cost.[60] Centel asserts that it does not apply FDC in a discriminatory manner. Centel avers that it prices special access and expanded interconnection services using a cost methodology that incorporates the direct costs of the service and appropriate overheads.[61] Centel also contends that its overhead loadings are less than the levels ALTS considers excessive.[62] Similarly, Bell Atlantic states that it based the rates for its collocation service, as it does for any new service, on direct costs, plus overhead loadings.[63] SWB, too, asserts that ALTS misunderstands how LECs price their services. SWB claims that it uses incremental cost as a price floor, and that it should not be held to an arbitrary cost allocation methodology that would lead to non-market based rates. SWB claims that no business can survive offering services at average variable cost because joint and common costs to the firm must be recovered for the firm to remain viable. It asserts the LECs must recover overhead costs in the prices of their services. SWB claims that, in total, it recovers overhead costs as fully as if an FDC pricing methodology had been used.[64]

20. Another issue raised by petitioners against the LECs' proposed rates involves the LECs' overhead loadings. ALTS, MFS, Teleport, and TDL assert that the overhead loadings that are identified in the LECs' tariffs are excessive and discriminatory.[65] ALTS contends that, to ensure that overhead loadings are applied in a nondiscriminatory manner, the Commission should require the LECs to establish a collocation overhead loading factor that is consistent with the overhead loadings used in setting rates for their high capacity services, including those subject to volume and term discounts.[66] Teleport

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[58] GTE Reply at 32-33.

[59] Bell Atlantic Reply at App. A Item 11.

[60] NYNEX Reply at 16.

[61] United/Centel Reply at 18-19.

[62] Id. at 19 n.38.

[63] Bell Atlantic Reply at App. A Item 11.

[64] SWB Reply at 3-4.

[65] MFS Petition at 18-21; TDL Petition at 5-6; Teleport Petition at App. A Item 2; ALTS Petition at 7-9.

[66] ALTS Petition at 8.

avers that the LECs have used special access loading factors which include GSF costs, thereby violating the Expanded Interconnection Order's requirement that no subsidies or contributions be included.[67]

21. ALTS and MFS each contend that BellSouth, NYNEX, Pacific, Centel, and GTE fail to identify or give any justification for their loading factors. They assert that this directly contravenes the requirement in the Expanded Interconnection Order that the LECs demonstrate that any overhead loadings they employ are reasonable and do not discriminate against collocators.[68] Teleport contends that BellSouth, Pacific, NYNEX, and GTE used "administrative overhead cost" factors that were inadequately supported. Teleport argues that these carriers should be required to develop and apply special access category loading factors, assuming any loading factor is appropriate.[69]

22. Teleport contends that SWB's loading factors are several times greater than those applied by the other LECs. Teleport points out that while other LECs use special access loading factors between 1.5 and 1.8, SWB uses a factor of 2.26 for a DS1 and 3.53 for a DS3.[70] Teleport asserts that SWB must be required to recompute its rates using reasonable loading factors, or no such factors at all.[71] MFS also states that SWB employs the highest loading factor of any LEC and uses higher loading factors in setting its collocation rates than it does in setting rates for services that are competitive to CAP service offerings. To illustrate, MFS asserts that SWB uses a loading factor of 146 percent for its collocation tariffs, but employs loading factors of between 37 and 71 percent for its Self-Healing Transport Network Service.[72] Ad Hoc contends that SWB's approach to overhead loadings unacceptably distorts the economic relationship between DS1 and DS3 interconnection services by placing a disproportionately high cost recovery burden on DS3 interconnection services.[73]

23. MFS and TDL assert that US West uses higher loading factors in setting its collocation rates than it does in setting rates for services that were designed to compete

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[67] Teleport Petition at 4 n.8 & App. A Item 2.

[68] ALTS Petition at 7-8 (citing Expanded Interconnection Order, 7 FCC Rcd at 7429); MFS Petition at 18 (citing same).

[69] Teleport Petition at App. A Item 2.

[70] In most ratemaking, an overhead loading factor indicates the amount by which direct costs of a rate element are increased in order to recover overhead costs not directly attributable to the service. A loading factor of 1.0 means that the carrier is recovering no overheads for a rate element, while an overhead loading of 2.0 means that the carrier is recovering overheads in an amount equal to direct costs, or, alternatively, that the price is set at twice the level of direct costs.

[71] Id.

[72] MFS Petition at 20.

[73] Ad Hoc Petition at 25-26.

against CAP networks.[74] MFS contends that US West uses a loading factor of 83 percent for its collocation tariffs, but employs loading factors of 6 to 51 percent for its Self-Healing Alternate Route Protection Service.[75] Moreover, MFS and TDL contend, US West derived its overhead loading factor using data reflecting the full Part 69 Special Access category. They assert this practice is inappropriate because tariffed cross-connection rates will exist only for DS1 and DS3 services, not the entire array of special access services.[76] Ad Hoc contends that US West has not even attempted to develop or apply overhead cost loadings on a uniform basis. Ad Hoc asserts that the method used by US West results in overhead cost loadings that vary among individual rate elements from 1.83 to 1.09. Ad Hoc insists that these deviations from uniform overhead loadings are inconsistent with the requirements in the Expanded Interconnection Order.[77]

24. Ad Hoc faults Bell Atlantic's overhead factor of 1.6845, asserting that the actual ratio of rates to direct costs varies among rate elements from 1.96 to 1.00 for two reasons. First, Ad Hoc alleges that Bell Atlantic misuses the rounding process so that, for example, the loaded costs for a DS1 cross-connect is rounded up from $2.57 to $3.00, an increase of nearly 17 percent that results in a rate/cost ratio of 1.96.[78] Second, Ad Hoc avers that since the loading factor was developed relative to net investment, those rate elements that are not associated with investments, such as the design and planning fee and cable installation charge, escape the loading factor entirely, so that these elements have a rate/cost ratio of 1.00. Ad Hoc asserts that Bell Atlantic's rental space charges also have a rate/cost ratio of 1.00, which implies that the loading factor was not applied to these costs despite their investment-related nature. Ad Hoc argues that Bell Atlantic should be made to explain these departures from a uniform rate/cost relationship and to correct those anomalies that cannot be justified.[79] PAC contends that Bell Atlantic is seeking to charge its competitors more than fully distributed costs through loading overhead allocations into its rates.[80] PAC also complains that Bell Atlantic applied account-specific annual cost factors to calculate certain direct cost components, but does not explain what they are or how they are used.[81]

25. Ad Hoc asserts that Nevada has clearly violated the Commission's intent to establish cost-based pricing for expanded interconnection services by applying overhead

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[74] TDL Petition at 6; MFS Petition at 19-20.

[75] MFS Petition at 19-20.

[76] Id; TDL Petition at 5-6.

[77] Ad Hoc Petition at 27-28.

[78] Id. at 26-27.

[79] Id. at 27.

[80] PAC Petition at 1-3, 13-14, 13 n.34.

[81] Id. at 14-15.

loadings that are a thinly disguised vehicle for strategic pricing of DS1 and DS3 cross-connections. Ad Hoc argues that the recurring rate of $113.60 for a DS1 cross-connect is four times the reported direct cost of $26.24; and the recurring rate for a DS3 cross-connect is 18 times the direct cost.[82] According to Ad Hoc, Nevada admits that such overheads reflect the cross elastic effects of DS1 and DS3 services, rather than any real overhead costs. Ad Hoc asserts that this would distort the rate relationships between DS1 and DS3 interconnection offerings.[83]

26. In response, NYNEX, Bell Atlantic, SNET, GTE, and US West deny Teleport's claim that the Expanded Interconnection Order requires LECs to remove GSF expenses from the factors used to develop uniform overhead loadings.[84] SNET argues that the Commission's intent to disallow a contribution charge in a separate rate element does not apply to overheads or require LECs to disregard the current Part 69 Rules.[85] NYNEX argues that the Expanded Interconnection Order only stated that a rulemaking would be initiated to remove the overallocation of GSF to special access, and that even after this has been accomplished, special access rates will continue to recover a proportionate share of GSF costs.[86] NYNEX argues that until the overallocation of GSF is removed, or NYNEX's GSF waiver is granted, it is reasonable for it to use factors that are consistent with the amount of GSF allocated to special access under Part 69.[87] US West also argues that GSF costs should remain part of overheads until the Commission decides otherwise.[88] US West and Bell Atlantic observe that the Bureau recently denied a waiver request to exclude GSF from overheads in the context of the annual access proceeding.[89] US West maintains that it would be inappropriate for the Commission to require removal of GSF costs from expanded interconnection overheads before it resolves GSF issues generally.[90] GTE, too, argues that so long as the GSF rulemaking is pending,

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[82] Nevada subsequently reduced its DS1 cross-connect rate to $27.19 and its DS3 cross-connect rate to $128.29 from $2,0002.22.

[83] Ad Hoc Petition at 25.

[84] NYNEX Reply at 7-8; Bell Atlantic Reply at App. A Item 12; SNET Reply at 7-8, Exh. 13.2; GTE Reply at 32, 34-35; US West Reply at 51-53.

[85] SNET Reply at 7-8, Exhibit 13.2.

[86] NYNEX Reply at 7-8.

[87] Id.

[88] US West Reply at 51-53.

[89] Id. (citing Commission Requirements for Cost Support Material to be Filed with 1993 Annual Access Tariffs, 8 FCC Rcd 2306 (Com.Car.Bur. 1993); Bell Atlantic Reply at App. A Item 12 (citing same).

[90] US West Reply at 53.

inclusion of GSF costs in overheads is permissible.[91]

27. In addition, the LECs defend their overhead loadings. Lincoln responds that the Expanded Interconnection Order permits LECs to include reasonable overhead loadings in their collocation rates and, therefore, MFS's position against such loadings is without support.[92] SNET asserts that its proposed tariff does not contain an explicit contribution charge, and that its overhead loading factor represents legitimate costs not specifically accounted for in incremental cost amounts.[93] Moreover, SNET argues, the Commission allows the application of a general overhead loading factor as the ceiling for pricing new services.[94] SNET asserts the methodology it developed, using data from ARMIS, has previously been accepted by the Commission in other new service filings.[95] GTE states that it used overall administrative expense factors obtained from fully distributed annual access charge studies to develop overheads, and that these same factors have been used to develop rates for new services generally.[96] Bell Atlantic replies that it used a consistent overhead loading methodology throughout this filing based on ARMIS data. Bell Atlantic contends that there is no basis for MFS's objection that the LECs did not use loadings based upon comparable services with which the CAPs compete. Bell Atlantic asserts that it proposed such a methodology in its interim tariff but, at the request of the Common Carrier Bureau staff, revised it to conform to the methodology used in the instant filing.[97]

28. BellSouth claims that its overhead loadings are reasonable. BellSouth asserts that although it applied a different approach in developing loadings for expanded interconnection services than it has used with respect to its special access high capacity services, this approach resulted in considerably more modest loading factors for expanded interconnection relative to those it employs for its special access high capacity services.[98] BellSouth claims that if it had used the same methodology for its expanded interconnection filing that it employs for its high capacity special access services, it would

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[91] GTE Reply at 32.

[92] Lincoln Reply at 4.

[93] SNET Reply at 7-8, Exhibit 13.2. SNET asserts that its overhead loading factor accounts for network support, plant non-specific, customer operations, corporate operations, and general support expenses. Id. at 7.

[94] Id. at 8 (citing Policy and Rules Concerning Rates for Dominant Carriers, Order on Reconsideration, CC Dkt. No. 87-313, 6 FCC Rcd 2637 (1991) (LEC Price Cap Reconsideration Order), aff'd National Rural Telecom Ass'n v. FCC, 988 F.2d 174 (D.C. Cir. 1993); and Expanded Interconnection Order, 7 FCC Rcd at 7422).

[95] Id.

[96] GTE Reply at 34-35.

[97] Bell Atlantic Reply at App. A Item 12.

[98] BellSouth Reply at 14.

have been able to justify higher rates. BellSouth thus argues that the Commission should find that its overhead loadings are unreasonably low and direct BellSouth to increase its loadings and rates for expanded interconnection service.[99] SWB claims the rate development process it used caused expanded interconnection rates reflecting the same overhead recovery characteristics as its DS1 and DS3 services. It argues that its overhead loading factors reflect the overhead presently included in its DS1 and DS3 rate levels, and are in line with historical trends.[100] SWB also claims that application of overhead loadings is allowed in the Expanded Interconnection Order. Finally, SWB argues, exclusion of overhead costs would require other LEC offerings to recover a proportionally greater share of the costs, and would send false economic signals that could stimulate uneconomic entry into the access market.[101]

29. Pacific argues that it has applied a special access category overhead loading factor of 2.87 percent to each recurring cost element, which is set forth in the workpapers Pacific submitted with its filing. Pacific argues that the method used to develop the factor is not based in any way on special access revenue requirements. According to Pacific, its overhead factor is reasonable, has been applied in a uniform manner, and reflects the same loadings as Pacific uses for new service filings.[102] Ameritech argues that inclusion of overhead loadings is necessary to recover the full cost of providing collocation service, and was authorized by the Commission.[103]

30. US West argues that its overhead loading factor is reasonable. US West developed a loading factor of 1.83 based on its special access category. This factor was applied to the direct costs for the cross-connection rate elements. US West argues that

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[99] Id. at 17 and Exhibit 1 (BellSouth's showing recalculates costs for floor space, DS1 and DS3 cross-connect elements, and AC and DC power elements using the methodology it uses for special access filings. Using this method, BellSouth calculates a recurring rate of $1192 rather than $931 for the collocation space, and a rate of almost $15, rather than $9, for the DS1 cross-connect).

[100] SWB Reply at 8-9. SWB argues that its overhead amount is understated. It claims that the Expanded Interconnection Order denied LECs the option of using non-uniform overhead loadings, which allowed them to include lost overhead resulting from customer migration from an old service to a new service in proposed rates. It contends that additional overhead would otherwise have been included depending upon the channel mileage that would be displaced because the Commission has required expanded interconnection. Id. at 10-11 (citing Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture Policy and Rules Concerning Rates for Dominant Carriers, 7 FCC Rcd 5235, 5235 (1992)).

[101] Id. at 9-10.

[102] Pacific Reply at 4-6. Pacific also states that its overhead loadings do not include an allocation of GSF. Id. at 6.

[103] Ameritech Reply at 21 (citing Expanded Interconnection Order, 7 FCC Rcd at 7429 n.291).

it applied uniform overhead loadings in pricing connection charges.[104] US West also maintains that it used a uniform overhead loading methodology in developing rate elements for maintenance, supplemental humidification, entrance structure, power, and base rent.[105] US West asserts that it applied lower overheads to its Quotation Preparation Fee in anticipation of criticism over the magnitude of the fee. For security escort service, it applied minimum overhead to cover the costs of billing for that service.[106] In addition, US West argues that its expanded interconnection channel termination (EICT) is not comparable to DS1 or DS3 rates for purposes of evaluating overheads. According to US West, EICT charges cover intra-office distances, while DS1/DS3 services can be several miles long; EICT is limited to 144 central offices, while DS1/DS3 service is available throughout US West's service region; each EICT is expected to be purchased in conjunction with a DS1/DS3 channel termination, so that interconnectors can avoid the costs of building their own local loops; and EICT and DS1/DS3 channel terminations are provisioned with different equipment.[107] US West dismisses the interconnectors' complaint that they have fewer services than US West among which to spread overhead costs, and asserts that this is no reason to find US West's overhead loadings to be unreasonable.[108]

31. Discussion. *Overhead Loadings.* The level of expanded interconnection charges is influenced significantly by the LECs' choice of overhead factors. For example, these factors range from 1.64 for Ameritech to 2.42 for Bell Atlantic for the DS1 cross-connect charge.[109] In addition, Teleport's analysis of the expanded

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[104] US West Reply at 29-30.

[105] Id. at 30-31.

[106] Id. at 31-32.

[107] Id. at 33-34.

[108] Id. at 34.

[109] For purposes of this Order, overhead factors are defined as the ratio of price to unit direct cost or total revenue to total direct cost. (Thus, for example, an overhead factor of 1.00 indicates no overheads, and an overhead factor of 2.00 indicates that overheads are equal to direct costs.) For comparison to ARMIS data, and for cross-company comparisons, we defined direct costs as the capital costs (depreciation expense, net return on average investment at 11.25 percent, and income taxes) and maintenance costs associated with investment exclusive of general support facilities and defined overhead costs as all other costs. Likewise, in calculating overhead factors based on ARMIS data, the same set of assumptions was used. Overhead factors for companies that included large amounts of administrative costs as direct costs, for example, were adjusted upward by removing administrative expenses from direct costs and treating them as overheads. These recalibrations were made primarily to make LEC data comparable to ARMIS data and do not reflect the view that direct costs and overheads, as a matter of definition, must consist solely of the items described above.

interconnection costs for DS1 service[110] presents evidence that overhead factors appear to be a significant reason for the high rates filed by certain companies in comparison with the industry average. Therefore, evaluation of LECs' overhead factors is an important element in determining whether the rates before us are justified.

32. The Expanded Interconnection Order cautioned LECs that if they chose to reflect fully distributed cost (FDC) overhead loadings in their rates, the Commission would compare such loadings to the overhead loadings used for other services and require justification for any differences in overhead loadings.[111] Review of the LECs' overhead factors by comparison to overhead factors derived from 1992 special access ARMIS data reveals that all LECs used overhead factors that either approximated or exceeded the FDC level for the special access category.

33. None of the LECs provide the required justification for these overhead loadings. Although many claim that their overhead factors are derived from various types of special access cost data, virtually none provide any information regarding loadings for special access services, such as DS1 and DS3 services, much less demonstrate comparability or justification for noncomparability.[112] In many cases, LECs did not provide sufficient cost data to determine the overhead factor for a particular rate, or did not provide overhead ratios, contrary to the requirements of the Part 69 ONA Order, which directs the LECs to provide overhead ratios as cost support for new services.[113] Nonrecurring charges, in particular, were often inadequately supported. Therefore, based on the record before us, it is impossible for us to find the overhead loadings included by the LECs to be reasonable.

34. Given the LECs' failure to justify their proposed overhead loadings, we will partially suspend their rates to the extent they include overhead loadings for expanded interconnection services that exceed ARMIS FDC levels for special access services. In light of the current record, we believe that the ARMIS overhead levels represent the best currently available verifiable surrogate for overhead loadings for other services. Use of

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[110] Teleport's estimates are based on several assumptions, such as the use of 100 DS1s and amortization of nonrecurring charges over 5 years.

[111] Expanded Interconnection Order, para 128.

[112] SWB uses "closure factors" for DS1 and DS3 services, which it claims are comparable to the overhead factors used to price its DS1 and DS3 expanded interconnection services. However, SWB has not shown that the "closure factors" on which SWB relies are equivalent to the overhead factors at issue here. Also, NYNEX argues that expanded interconnection overheads are less than overheads for DS1 and DS3 services. However, this claim is not supported by relevant cost data. BellSouth claims that expanded interconnection overheads are less than overheads for a certain specialized high capacity service. However, the last service may not be representative of most DS1 and DS3 services.

[113] Most LECs varied their overhead factors from rate to rate and did so without explanation, contrary to the requirements of the Expanded Interconnection Order and the Part 69 ONA Order.

this approach for the interim period will best facilitate the Commission's goal of encouraging competition to the extent that it is economically efficient. Provision of bottleneck facilities at rate levels proposed by the LECs that exceed the average overhead loading levels for the special access category as a whole, (i.e., exceed FDC levels) will unreasonably discourage competitive entry.

35. In addition, we find that the LECs have established rate elements for expanded interconnection specifically to recover costs that would ordinarily be included as FDC overheads on all rates. Cage construction and space charges recover land and building costs, a substantial component of investment and expenses for general support facilities. Electric power charges, service ordering, and application fees, and certain nonrecurring charges recover substantial portions of network operation expenses (power, engineering, network administration and testing costs). Thus, it appears that the LECs are double-recovering these overhead costs, first in stand-alone rate elements and second in overhead loading factors.

36. Therefore, at a minimum, overhead loadings claimed by the LECs should be limited to an FDC level adjusted to eliminate double-counting of overhead costs. Because the LECs have not followed the requirements of the Expanded Interconnection Order and have not adequately justified their overheads, rates as filed have not been adequately supported and must be reduced as described below.

37. In order to determine whether the LECs' rates exceed FDC levels less double-counted overheads, we calculated special access loading ratios for each LEC from each LEC's own 1992 ARMIS special access cost data, adjusted to eliminate double-counting for land and buildings and network operations. The adjusted ARMIS overhead factor for each LEC was compared to the LEC's overhead factor for each of its rates, as adjusted for comparability to the ARMIS factor. We calculated a rate adjustment factor (RAF) to adjust downward the LEC's rates to the extent that they reflected an overhead factor higher than the adjusted ARMIS factor.[114] The RAFs for each company and the calculations supporting the RAFs are included in Appendix C.[115]

38. Therefore, we are advancing the effective date for the expanded interconnection tariffs by one day, and partially suspending these rates pending

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[114] It was necessary for us to compare the LECs' overhead loading factors to the ARMIS levels on a rate element by rate element basis, because in almost all cases, each LEC uses various overhead loading factors for their rate elements. To avoid a possible "peaks and valley" problem (reducing excessive overheads without compensation for overheads below the ARMIS limit), we considered using an average overhead loading factor, but were not able to do so for several reasons. First, there is no reliable demand information that would allow us to weight each rate element correctly. Second, in many cases, the LECs did not provide sufficient cost support to determine the overhead loading factor for several rate elements. As a result, there were insufficient data to compute a reliable average.

[115] For many rate elements, particularly nonrecurring charges, there was a lack of sufficient cost support to compute LECs' overhead factors. As a result, we were unable to compare overheads for these rate elements to ARMIS overheads and determine appropriate disallowances.

investigation pursuant to Section 204(a) of the Communications Act, 47 U.S.C. § 204(a). We suspend the entire rate for one day, and for the remainder of the 5-month suspension period we suspend the part of the rate that exceeds the levels justified by the present record. Companies are required to reduce and refile their expanded interconnection rates to the levels resulting from multiplication of their filed rates by the relevant RAFs. We find that this approach is reasonable and will best serve the public interest. The partial rate suspension ordered here may not resolve the issue of excessive overheads. As part of the investigation initiated in this Order, LECs will be required to make additional showings, to be specified in a subsequent designation order. Additional issues regarding rates will be raised in the designation order as well.

39. *GSF Reallocation.* On May 19, 1993, the Commission released a Report and Order amending its Part 69 rules to correct a misallocation of general support facility (GSF) investment and related expenses.[116] The Commission found that the exclusion of common line investment from the formula for allocating GSF investment results in an underallocation of GSF investment to the common line category and an overallocation of such investment to the special access and traffic sensitive categories. The Commission corrected the formula, effective July 1, 1993.

40. As previously discussed, rates filed by the LECs for expanded interconnection reflect overhead loadings that are approximately equal to or above FDC overhead loadings for special access services, based on 1992 data from ARMIS. For those overheads that exceed ARMIS levels, this Order requires LECs to reduce overheads to the levels specified in Appendix C. As a result of the GSF Order, however, the 1992 data used to calculate FDC-based overheads overstate overhead loadings for special access because they include the misallocation of GSF costs to special access.

41. Therefore, we are advancing the effective date for the expanded interconnection tariffs by one day, and partially suspending these rates pending investigation pursuant to Section 204(a) of the Communications Act, 47 U.S.C. § 204(a). We suspend the entire rate for one day, and for the remainder of the 5-month suspension period we suspend the part of the rate that exceeds the levels justified by the present record. The LECs are required to make an additional adjustment to overhead loadings to reflect the Commission's GSF Order. We will require LECs to refile expanded interconnection rates to reflect the GSF decrease. Because the GSF Order does not take effect until July 1, 1993, we will not require that this adjustment be made when LECs refile rates to reflect this tariff Order prior to the June 16, 1993, effective date of expanded interconnection rates. However, we encourage LECs to make this adjustment immediately, both to minimize rate churn to customers, and to minimize changes in LEC billing systems. Should a LEC choose not to implement the GSF adjustment immediately, we require the adjustment to be made no later than July 16, 1993, to become effective on 5 days' notice. LECs must use the method described in Appendix D to calculate and apply new RAFs reflecting the GSF reallocation.

42. *Direct Costs.* We have found four cases in which companies have

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[116] Amendment of the Part 69 Allocation of General Support Facility Costs, CC Dkt. 92-222, FCC 93-238 (rel. May 19, 1993) (GSF Order).

miscomputed their direct costs, resulting in a double-recovery of certain costs. This section explains the source of the double-counting, and details the rate cuts which must be made.

43. BellSouth has used an incorrect method to develop its direct costs for the Space Construction rate element. It identified the costs of designing and constructing the cage, including both material and labor costs, to be $36,191.74. BellSouth then applied cost factors to this amount to determine the annual depreciation, return, and income tax expenses to be $6,916.24. It then determined the net present value of these annual expenses at 13.34 percent for 44.7 years to be $51,652.87, and set its rate at $51,660.

44. BellSouth may recover the costs of Space Construction either as an up-front nonrecurring charge, or over the expected life of the service as a recurring charge. However, the costs used to set the nonrecurring charge for Space Construction should not exceed the original cost of building the cage. BellSouth set its rate using inapplicable net present value (NPV) calculations, rounded up to the next ten dollars. We partially suspend BellSouth's nonrecurring charge for Space Construction to its identified direct cost prior to the NPV calculation, rounded to the next ten dollars, or $36,200.00.

45. GTE also appears to have computed its Building Modification nonrecurring charges in the same manner as BellSouth did for its Space Construction elements, i.e., GTE computed the annual costs associated with the investment, and then computed the present value of that annual cost. As with BellSouth's Space Construction rate, the proposed nonrecurring charges are greater than the entire material and labor cost of the building modification. We partially suspend GTE's rates for its Building Modification to the material and labor costs.

46. United also appears to be double-recovering for its installation labor in its conduit space, DS-1 cross connect, and DS-3 cross-connect rate elements. These rates include, as part of their annual costs, the cost of the engineering and installation labor used to put in place the investment used to provide this service, recovered over the estimated location life, which in most cases is five years. United calls this the non-recoverable cost. This labor cost is also recovered as part of the depreciation expense for these rate elements.

47. It is not clear whether United should be allowed to recover this cost over the life of the location, or whether it should be required to recover the cost over the depreciation life reflected in its depreciation expense. However, it is clear that United should not be allowed to recover twice for this expense. Therefore, we partially suspend its rate by the portion of its depreciation expense that recovers this labor cost.

48. Bell Atlantic has used a method to develop its space occupancy rate that assigns excessive costs to this element. To develop this rate, Bell Atlantic first identified geographic location-specific costs for a square foot of office space, using current office space listings such as Black's Guide in urban areas, or on prevailing local rates in suburban and rural areas. Second, it adjusted these rates to reflect the extraordinary costs that distinguish a central office from standard commercial office space, such as higher ceilings, reinforced floors, and additional environmental conditioning for central office

equipment. Finally, Bell Atlantic added administrative costs for periodic review of each central office.[117]

49. This third step leads to a double-recovery of costs. The prevailing office rental space rates developed in the first step of Bell Atlantic's method already include the overhead costs for the average landlord, including any periodic review the landlord may have to do of its space. Thus, Bell Atlantic's third step will result in double-recovery of this cost.

50. Bell Atlantic has proposed a space occupancy rate of $3.22 per square foot per month. The administration cost included in that rate is $1.17 per square foot per month. We therefore partially suspend Bell Atlantic's space occupancy rate to the difference between these two, or $2.05 per square foot per month.

51. Therefore, we are advancing the effective date for the expanded interconnection tariffs by one day, and partially suspending these rates pending investigation pursuant to Section 204(a) of the Communications Act, 47 U.S.C. § 204(a). We suspend the entire rate for one day, and for the remainder of the 5-month suspension period we suspend the part of the rate that exceeds the levels justified by the present record. The specific allowances for each rate element of each LEC are found in Appendix C. We believe this approach is reasonable and will best serve the public interest. The partial rate suspension ordered here may not resolve the issue of direct costs. As part of the investigation initiated in this Order, LECs will be required to make additional showings, to be specified in a subsequent designation order. Additional issues regarding rates will be raised in the designation order as well.

C. Tariff Filing Requirements

1. Physical Collocation

52. Pleadings. PUCO complains that GTOC should have filed tariffs providing for physical collocation for its Ohio central offices despite GTOC's request for exemption from physical collocation on the basis of state policy. PUCO states while it has adopted a formal position favoring LEC choice, and thus tentatively supports GTOC's request for exemption from mandatory physical collocation, a significant consideration in support of its decision was the expected filing of physical collocation tariffs.[118] GTE responds that it misread the Ohio order on collocation and will file interstate physical collocation for

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[117] US West used a similar method. It used the value of comparable rental space as the cost of the leased physical space reflected in its Base Rent rates. Stating that this cost excludes property taxes and operating costs, it then added these two items to the leased physical space cost to determine the Base Rent rates. However, it is not clear that these two items would be excluded from prevailing rental rates, because property owners in general must pay these costs out of their rental proceeds. We find the record is unclear on whether US West excluded these two costs in determining the value for comparable rental space; we will examine this issue in the investigation.

[118] PUCO Petition at 5.

Ohio.[119]

53. In addition, a number of petitioners fault the use of ICB pricing in certain LECs' physical collocation tariffs. MFS charges that the proposals of Bell Atlantic, Centel, and US West to construct collocation cages on an ICB basis violate the Expanded Interconnection Order.[120] Teleport, Ad Hoc, and MCI make the same charge with respect to Bell Atlantic and US West;[121] PAC with respect to Bell Atlantic;[122] and PUCO with respect to United.[123] MFS and PAC assert the Expanded Interconnection Order requires tariffing of charges for the labor and material necessary to establish collocation arrangements.[124]

54. MCI dismisses the LECs' argument that ICB rates are necessary because collocator preferences will be highly individual. MCI argues that the solution is to offer a standard type office construction element and allow for variations based on additional labor and materials at tariffed rates for such services. MCI alleges that if these LECs' tariffs are permitted to take effect as filed, interconnectors will be severely inhibited from interconnecting with them.[125] MFS urges the Commission to reject all ICB pricing provisions for cage construction.[126]

55. Rochester and Bell Atlantic respond that the construction costs associated with making space ready for interconnectors to occupy are not susceptible to a uniform tariffed rate because they depend on the amount, location, and configuration of the interconnector's space.[127] Rochester asserts that it will charge for such work based upon its tariffed time and materials rates, and that the Commission did not mandate that such

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[119] GTE Reply at 25. We note that GTOC has not yet filed physical collocation tariffs for Ohio.

[120] MFS Petition at 30 (citing Expanded Interconnection Order, 7 FCC Rcd at 7442), 45.

[121] Teleport Petition at App. A Item 22; MCI Petition at 7; Ad Hoc Petition at 15-17. Teleport further asserts that notwithstanding Bell Atlantic's use of an ICB rate structure, it nonetheless includes a provision allowing it to charge even more in the event it experiences "extraordinary costs." Teleport Petition at App. A Item 22.

[122] PAC Petition at 12.

[123] PUCO Petition at 6.

[124] PAC Petition at 12-13 (citing Expanded Interconnection Order, 7 FCC Rcd at 7442); MFS Petition at 30 (citing same).

[125] MCI Petition at 7-8.

[126] MFS Petition at 30-31.

[127] Rochester Reply at 4-5; Bell Atlantic Reply at App. A Item 3.

charges be tariffed.[128]

56. United asserts that it filed a time and materials rate provision for central office buildout which offers customers the option of using a third party contractor satisfactory to both parties.[129] United asserts that this provision is reasonable because: fixed construction rates are unavailable and so tariffing a fixed rate would place the burden on United rather than on the prospective interconnector; labor and material cost to United is uncertain; cage design is not standardized; and allowing a customer to choose the contractor to construct the cage removes the ability of United to improperly inflate the cage construction price. United asserts that PUCO's objections to time and materials rate provisions should therefore be rejected.[130]

57. US West argues that its ICB rate structure benefits the interconnector because it allows for the most customization of space and achieves the most cost efficiencies possible for the interconnector.[131] US West notes that many factors may vary from interconnector to interconnector including entrance structure requirements (e.g., number of fibers), placement of the leased physical space in relation to the central office vault (i.e., the number of floors separating the leased space from the entrance structure), amount of space, type of enclosures, power levels and related air conditioning requirements, and humidification levels. US West contends that these factors make ICB rates preferable to generally averaged rates.[132] US West argues that discrimination would be minimized by filing of ICB rates at the conclusion of negotiations, so that other interconnectors may take the same rates in similar circumstances.[133] US West asserts that ICB rates are appropriate because it has no prior experience offering expanded interconnection, and expects to file generally averaged rates after it gains further experience with offering expanded interconnection.[134]

58. Discussion. The Expanded Interconnection Order requires that physical collocation be offered[135] except where exemptions have been requested by a LEC and

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[128] Rochester Reply at 5-6 (citing Expanded Interconnection Order, 7 FCC Rcd at 7442, ¶ 158).

[129] United/Centel Reply at 8-9. United adds it proposes to bill environmental support construction on a time and materials basis. Id. at 9 n.21.

[130] Id. at 9-11.

[131] US West Reply at 41.

[132] Id. at 41-42.

[133] Id. at 42.

[134] Id. at 43-44.

[135] Expanded Interconnection Order, 7 FCC Rcd at 7390.